



066340.0176

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Heger et al. Examiner : Chen, Kin-Chan  
Serial No. : 10/656,353 Art Unit : 1765  
Filed : September 5, 2003  
For : METHOD FOR DETERMINING THE END POINT FOR A  
CLEANING ETCHING PROCESS

I hereby certify that this paper for S/N 10/656,353 is being facsimile  
transmitted to 571-273-8300 at the United States Patent & Trademark Office  
on the date indicated below:

May 16, 2007

Date of Deposit

Gary M. Butter

Attorney Name

Signature

33,841

PTO Reg. No.

May 16, 2007

Date of Signature

Commissioner of Patents  
Office of Patent Publication  
Mail Stop Petition  
P.O. Box 1450  
Alexandria, VA 22313-1450

FOLLOW UP TO PETITION TO WITHDRAW HOLDING OF  
ABANDONMENT RESULTING FROM FAILURE TO RECEIVE  
NOTICE OF ALLOWANCE AND STATEMENT UNDER 37 C.F.R. § 1.181

On October 18, 2006 we filed a Petition to Withdraw Holding of Abandonment Resulting  
from failure to Receive Notice of Allowance and Statement under 37 C.F.R. §1.181. A copy is  
attached as Exhibit 1.

On March 21, 2007 we filed a Follow-up Petition since we had received no reply to our  
previous request. A copy is attached as Exhibit 2.

Patricia Faison-Ball of the United States Patent Office of Petitions granted our Petition on  
April 20, 2007 and was received by our office on April 25, 2007. A copy attached as Exhibit 3.


On May 8, 2007 our office received a "Corrected Notice of Allowance and Fee(s) Due" notice which did not contain an Issue Fee Transmittal form and still has a due date of September 6, 2006. A copy is attached as Exhibit 4. Obviously, we cannot meet the due date of September 6, 2006 and if we could, we would still need an Issue Fee Transmittal form.

Applicants request that a Notice of Allowance and Issue Fee Transmittal Form, redated to the mailing date of the United States Patent and Trademark Office response to this communication, be resent. Applicants further request that a copy of the Notice of Allowance and Issue Fee Transmittal be faxed to the undersigned at 212 259-2546.

Applicants do not believe that any fee is required in connection with the submission of this document. However, should any additional fee be required, or if any overpayment has been made, the commissioner is hereby authorized to charge any fees, or credit any overpayments made, to Deposit Account No. 02-4377.

Respectfully submitted,

BAKER BOTTS L.L.P.



Gary M. Butter  
Patent Office Reg. No. 33,841  
Attorneys for Applicants  
30 Rockefeller Plaza  
New York, NY 10012-4498  
212 408-2500

Attachments

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 3270  
CONNECTION TEL 6910#0001#9#15712738300#  
CONNECTION ID  
ST. TIME 10/18 09:34  
USAGE T 02'10  
PGS. SENT 7  
RESULT OK

Attorney Docket No. A35976, 066340.0176

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Heget et al. Examiner : Chen, Kin-Chan  
Serial No. : 10/656,353 Art Unit : 1765  
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I hereby certify that this paper for S/N 10/656,353 is being facsimile  
transmitted to 571-273-8300 at the United States Patent & Trademark Office  
on the date indicated below:

October 18, 2006

Date of Deposit

Manu J. Teiwani

Attorney Name

Signature

37,952

PTO Reg. No.

October 18, 2006

Date of Signature

**PETITION TO WITHDRAW HOLDING OF  
ABANDONMENT RESULTING FROM FAILURE TO  
RECEIVE NOTICE OF ALLOWANCE AND  
STATEMENT UNDER 37 C.F.R. § 1.181**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

We have received a Notice of Abandonment (copy enclosed) in this case for

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Heger et al. Examiner : Chen, Kin-Chan  
Serial No. : 10/656,353 Art Unit : 1765  
Filed : September 5, 2003  
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on the date indicated below:

October 18, 2006

Date of Deposit

Manu J. Teiwani

Attorney Name



Signature

37,952

PTO Reg. No.

October 18, 2006

Date of Signature

**PETITION TO WITHDRAW HOLDING OF  
ABANDONMENT RESULTING FROM FAILURE TO  
RECEIVE NOTICE OF ALLOWANCE AND  
STATEMENT UNDER 37 C.F.R. § 1.181**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

We have received a Notice of Abandonment (copy enclosed) in this case for  
"Applicant's failure to timely pay the required issue fee and publication fee." The USPTO had  
apparently mailed a Notice of Allowance and Fee(s) Due on June 6, 2006 as now seen on PAIR.

Unfortunately, applicants' attorneys of record, Baker Botts L.L.P., did not receive  
the Notice of Allowance and, therefore, could not timely pay the fees due. In accordance with  
M.P.E.P. Section 711.03(c) II, applicants' undersigned counsel hereby attests that we have

searched the file jacket and the docket records of this office and have been unable to uncover any indication that the Notice of Allowance and Fee(s) Due ever received.

A printout of the pertinent portions of the computer e-mail list of the Baker Botts employee, who receives, docket, and forwards e-copies of incoming PTO paper mail to attorneys within Baker Botts, is appended hereto as Exhibit 1. The Exhibit lists all e-copied incoming PTO mail for our client "006340", for the period 5/30/2006 to 10/17/2006. The printout shows no entry for client-matter number 066340.0176 or Attorney Docket No. A35976 corresponding the above-identified application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

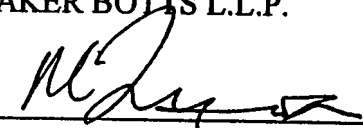
Applicants request the holding of abandonment of the application be withdrawn and a copy of the Notice of Allowance, redated to the mailing date of the PTO's response to this communication, be resent. Applicants further request that a copy of the Notice of Allowance be faxed to the undersigned at 212-259-2414.

Applicants do not believe that any fee is required in connection with the submission of this document. However, should any additional fee be required, or if any overpayment has been made, the Commissioner is hereby authorized to charge any fees, or credit or any overpayments made, to Deposit Account 02-4377.

Respectfully submitted,

BAKER BOTTS L.L.P.

By:



Manu J Tejawani

Patent Office Reg. No. 37,952

*Attorneys for Applicants*

30 Rockefeller Plaza

New York, NY 10012-4498

212-408-2500

To	Subject	Sent
Butter, Gary M.	066340.0141 - (A34941)	Thu 2/9/2006 11:...
Butter, Gary M.	066340.0144 - (A35056)	Wed 4/12/2006 2...
Butter, Gary M.	066340.0177 - (A36020)	Wed 4/19/2006 1...
Butter, Gary M.	066340.0168 - (A35814)	Fri 4/21/2006 1:0...
Butter, Gary M.	066340.0174 - (A35962)	Mon 5/1/2006 4:...
Butter, Gary M.	066340.0178 - (A36021)	Wed 5/3/2006 12...
Torres, Jillian	RE: Offsite 066340.0147	Tue 5/16/2006 1...
Butter, Gary M.	066340.0195 - (A36287)	Wed 5/24/2006 3...
Butter, Gary M.	066340.0185 - (A36189-PCT-USA)	Tue 5/30/2006 1...
Butter, Gary M.	066340.0126 - (A33890)	Mon 6/5/2006 2:...
Butter, Gary M.	066340.0142 - (A34942)	Thu 6/15/2006 1...
Butter, Gary M.; ...	066340.0148 - (A35190-PCT-USA)	Fri 6/23/2006 3:1...
Lewis, Sharren; H...	RE: URGENT FILE REQUEST - 066340.0209	Wed 7/5/2006 11...
Butter, Gary M.	066340.0186 - (A36204)	Wed 7/5/2006 3:...
Butter, Gary M.	066340.0221 - (A36523)	Wed 7/5/2006 4:...
Langellotti, Josep...	RE: file needed - 066340.0209 - did you send me this Lippert file?	Thu 7/6/2006 11:...
Butter, Gary M.; ...	066340.0131 - (A34394-PCT-USA)	Thu 7/6/2006 4:2...
Egan, Catherine T...	FW: File 066340.0221	Mon 7/10/2006 3...
Egan, Catherine T.	RE: File 066340.0221	Mon 7/10/2006 3...
Egan, Catherine T.	FW: 066340.0186 - (A36204)	Tue 7/11/2006 1...
Egan, Catherine T.	RE: 066340.0186 - (A36204)	Tue 7/11/2006 1...
Butter, Gary M.	066340.0210 - (A36359)	Tue 7/11/2006 1...
Butter, Gary M.	066340.0209 - (A36358)	Fri 7/14/2006 4:0...
Butter, Gary M.	066340.0173 - (A35964)	Mon 7/17/2006 3...
Butter, Gary M.	066340.0139 - (A34873-PCT-USA)	Thu 7/20/2006 1...
Butter, Gary M.	066340.0162 - (A35738-PCT-USA)	Mon 7/31/2006 3...
Butter, Gary M.	066340.0209 - (A36358)	Wed 8/2/2006 4:...
Wanka, Jessica	RE: File Request from CPI	Fri 8/4/2006 4:57...
Butter, Gary M.	066340.0140 - (A34921-PCT-USA)	Mon 8/7/2006 3:...
DL NY Records	File is needed in docketing...	Mon 8/7/2006 3:...
Lewis, Sharren; D...	RE: File is needed in docketing...	Mon 9/11/2006 1...
Butter, Gary M.	066340.0218 - (A36475-PCT-USA)	Tue 9/12/2006 4:...
Butter, Gary M.	066340.0166 - (A35764-PCT-USA)	Wed 9/13/2006 4...
Butter, Gary M.	066340.0174 - (A35962)	Wed 9/20/2006 1...
Butter, Gary M.	066340.0157 - (A35682-PCT-USA)	Mon 10/2/2006 3...
Butter, Gary M.	066340.0149 - (A35269-PCT-USA)	Wed 10/4/2006 4...
Butter, Gary M.	066340.0173 - (A35964)	Wed 10/4/2006 4...
Egan, Catherine T.	RE: 066340.0173 - (A35964)	Tue 10/10/2006 ...
Butter, Gary M.	066340.0185 - (A36189-PCT-USA)	Tue 10/10/2006 ...
Butter, Gary M.	066340.0139 - (A34873-PCT-USA)	Mon 10/16/2006 ...
Butter, Gary M.	066340.0176 - (A35976)	Tue 10/17/2006 ...
Butter, Gary M.	066340.0186 - (A36204)	

→ Notice of Abandonment

Exhibit 1

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Heger et al. Examiner : Chen, Kin-Chan  
Serial No. : 10/656,353 Art Unit : 1765  
Filed : September 5, 2003  
For : METHOD FOR DETERMINING THE END POINT FOR A  
CLEANING ETCHING PROCESS

I hereby certify that this paper for S/N 10/656,353 is being facsimile  
transmitted to 571-273-8300 at the United States Patent & Trademark Office  
on the date indicated below:

March 21, 2007

Date of Deposit

Gary M. Butter

Attorney Name

33,841

PTO Reg. No.

March 21, 2007

Date of Signature

Signature

**FOLLOW UP TO PETITION TO WITHDRAW HOLDING OF  
ABANDONMENT RESULTING FROM FAILURE TO RECEIVE  
NOTICE OF ALLOWANCE AND STATEMENT UNDER 37 C.F.R. § 1.181**

The attached Petition to Withdraw Holding of Abandonment Resulting from Failure to Receive Notice of Allowance and Statement under 37 C.F.R. §1.181 was faxed to the United States Patent and Trademark Office on October 18, 2006. As of this date we have received no reply.

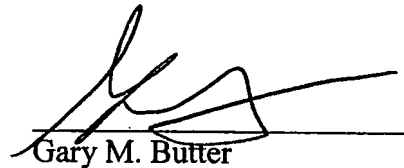
Applicants request that the holding of abandonment of the application be withdrawn and a copy of the Notice of Allowance, redated to the mailing date of the United States Patent and Trademark Office response to this communication be resent. Applicants further request that a copy of the Notice of Allowance be faxed to the undersigned at 212 259-2546.



Applicants do not believe that any fee is required in connection with the submission of this document. However, should any additional fee be required, or if any overpayment has been made, the commissioner is hereby authorized to charge any fees, or credit any overpayments made, to Deposit Account No. 02-4377.

Respectfully submitted,

BAKER BOTTS L.L.P.

A handwritten signature in black ink, appearing to read 'Gary M. Butter', is written over a horizontal line.

Gary M. Butter  
Patent Office Reg. No. 33,841  
Attorneys for Applicants  
30 Rockefeller Plaza  
New York, NY 10012-4498  
212 408-2500



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov

BAKER BOTTS L.L.P.  
30 ROCKEFELLER PLAZA  
44TH FLOOR  
NEW YORK NY 10112-4498

BAKER BOTTS LLP  
RECEIVED

APR 25 2007

066340.6176

COPY MAILED

APR 20 2007 BAKER BOTTS L.L.P.

OFFICE OF PETITIONS 7 APR 25 AM 11:28

In re Application of  
Percy Heger et al.  
Application No. 10/656,353  
Filed: September 5, 2003  
Attorney Docket No. A35976

ON PETITION

TO  
*[Signature]*

This is a decision on the petition filed October 18, 2006 and resubmitted March 21, 2007, to withdraw the holding of abandonment, which is treated under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before September 6, 2006 as was required by the Notice of Allowance mailed June 6, 2006. This application therefore became abandoned on September 7, 2006. Accordingly, a Notice of Abandonment was mailed October 9, 2006.

The file record discloses that the Notice of Allowance was mailed to the address of record, the same address to which the Notice of Abandonment was mailed and received by the petitioner. However, petitioner contends that the Notice of Allowance was not received. In support, petitioner indicates that a search of the file jacket revealed that the Notice was not received and submits copies of pages from the docketing system, wherein receipt of the Notice would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none will be charged.

This application is being forwarded to the Technology Center 1765 for a remailing of the Notice of Allowance and Notice of Allowability.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

*[Signature: Patricia Faison-Ball]*

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

CPI UPDATED

4/25/07 by ECG



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov

BAKER BOTTS L.L.P.  
30 ROCKEFELLER PLAZA  
44TH FLOOR  
NEW YORK NY 10112-4498

BAKER BOTTS LLP  
RECEIVED

APR 25 2007

066340.6176

COPY MAILED

APR 20 2007 BAKER BOTTS L.L.P.

OFFICE OF PETITIONS 7 APR 25 AM 11:28

In re Application of  
Percy Heger et al.  
Application No. 10/656,353  
Filed: September 5, 2003  
Attorney Docket No. A35976

ON PETITION

TV  
GMB

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*Patricia Faison-Ball*

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

CPI UPDATED

4/25/07 by ECO



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

**CORRECTED  
NOTICE OF ALLOWANCE AND FEE(S) DUE**

21003 7590 05/03/2007

BAKER BOTTS L.L.P.  
30 ROCKEFELLER PLAZA  
44TH FLOOR  
NEW YORK, NY 10112-4498

BAKER BOTTS LLP  
RECEIVED

MAY 08 2007

066340.0176

EXAMINER

CHEN, KIN CHAN

ART UNIT

PAPER NUMBER

1765

DATE MAILED: 05/03/2007

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,353	09/05/2003	Percy Heger	A35976	7817

TITLE OF INVENTION: METHOD FOR DETERMINING THE END POINT FOR A CLEANING ETCHING PROCESS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$300	\$1700	09/06/2006

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** NEITHER A NOTICE OF ALLOWANCE NOR A CORRECTED NOTICE OF ALLOWANCE IS A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND ANY PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THE THREE MONTH PERIOD BEGINNING ON THE MAILING DATE OF THE PREVIOUSLY-MAILED NOTICE OF ALLOWANCE AND ENDING ON THE DATE DUE SHOWN ON THIS FORM, OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. MAILING OF THIS CORRECTED NOTICE OF ALLOWANCE DOES NOT CHANGE THE DATE DUE OF THE ISSUE FEE (AND ANY REQUIRED PUBLICATION FEE). IF A REPLY (WITH PAYMENT OF THE ISSUE FEE AND ANY PUBLICATION FEE) WAS FILED IN RESPONSE TO THE PREVIOUSLY-MAILED NOTICE OF ALLOWANCE THEN NO FURTHER REPLY IS REQUIRED FROM APPLICANT.

All communications regarding this application must include the appropriate serial number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE, unless advised to the contrary.

BAKER BOTTS L.L.P.

07 MAY -9 AM 9: 39

DOCKETED FOR

AUG 03 2007 BY ECG

TO

GMB



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,353	09/05/2003	Percy Heger	A35976	7817

21003 7590 05/03/2007

BAKER BOTTS L.L.P.  
30 ROCKEFELLER PLAZA  
44TH FLOOR  
NEW YORK, NY 10112-4498

EXAMINER

CHEN, KIN CHAN

ART UNIT PAPER NUMBER

1765

DATE MAILED: 05/03/2007

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 203 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 203 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

# Notice of Allowability

Application No.

10/656,353

Examiner

Kin-Chan Chen

Applicant(s)

HEGER ET AL

Art Unit

1765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to May 5, 2008.
2. ☒ The allowed claim(s) is/are 4-9.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ Including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ Including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

K. Chen  
Kin-Chan Chen  
Primary Examiner  
Art Unit 1765